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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

R. Ayer
Proc II

9196

FILE: B-193916

DATE: February 16, 1979

MATTER OF: Braceland Brothers, Inc.

DIGEST:

Request that amount of defaulted contractor's liability for excess cost of reprocurement be reduced is matter within jurisdiction of agency board of contract appeals and not for consideration by the General Accounting Office.

Braceland Brothers, Inc. (Braceland) requests that the amount of its liability for excess costs of reprocurement on a contract terminated for default be reduced on the ground that Braceland relied upon a Government Printing Office (GPO) representation that such costs would be about \$10,000.00, when in fact the costs amounted to \$26,445.68.

The request results from GPO's December 29, 1977 default termination of Braceland's Program 532-S requirements contract with GPO. At that time Braceland was advised of GPO's intent to secure the balance of its Program 532-S requirements from another contractor and that Braceland would be held liable for the excess cost of reprocurement. By letter dated January 4, 1978 GPO advised Braceland in part as follows:

"To meet the needs of the Government and in an effort to mitigate damages to you, we have proceeded to make award to the second low bidder for the remaining term of the contract.

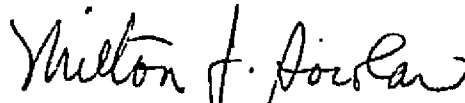
"Based upon the units of production listed in the specifications, we estimate costs in excess of your quotation to be about \$10,000.00."

Braceland reports that after weighing the costs of an appeal against GPO's estimate of the magnitude of the excess cost of reprocurement it made a decision not to contest the default termination.

At some time prior to December 20, 1978, Braceland learned that the excess costs of reprocurment amounted to \$26,445.68 instead of the estimated \$10,000.00, an increase of \$16,445.68. On December 20, 1978, Braceland met with GPO and confirmed that the sum of \$26,445.68 was accurately computed. Braceland did not appeal the reasonableness of the excess cost determination to GPO.

Braceland appears to read the January 4, 1978 letter as a binding commitment by GPO that GPO would reprocore its requirement in such a manner that Braceland's liability would not exceed \$10,000.00. We disagree. In our opinion, the letter purports to be nothing more than a mere estimate of Braceland's liability. Thus, we see no basis for any claim against the Government over which this Office would have cognizance. Accordingly, if Braceland disagrees with GPO's final calculation of the amount owing, that disagreement is properly for resolution under the disputes clause of Braceland's GPO contract. See Engineering Service Systems, Inc., B-191538, April 13, 1978, 78-1 CPD 285; International Harvester Company, B-181455, January 30, 1975, 75-1 CPD 67.

We therefore decline to consider the issue in controversy in this case.



Milton J. Socolar
General Counsel